

## **REMARKS**

### **Objections to Claim 7 and the Drawings**

The Examiner objected to claim 7 noting that the term "said pivot point" lacks antecedent basis. The Examiner also objected to the drawings asserting that they do not show the PC Drum of claim 11. In response, Applicants have amended claim 7 without adding new matter to address the antecedent basis objection. However, Applicants respectfully decline to correct the as-filed drawings because the PC Drum of claim 11 is already shown in those figures. Specifically, figure 1 illustrates the PC Drum (28) housed in, and partially exposed from, a removable cartridge (29). *See also Spec.*, para. [0017]. Applicants respectfully request that the Examiner withdraw the objections in light of the amendment to claim 7, and because figure 1 already illustrates the PC drum.

### **Restriction Requirement**

The Examiner restricted the pending claims into two Groups, and further asserts that the pending claims are directed to two distinct species. Group I species 2 includes claims 1-12 and 15-19. Group II species 1 includes claims 13-14 and 20-39. The Examiner bases the restriction on the assertion that the claimed apparatus can be used to practice another materially different process.

The MPEP explicitly provides that a proper restriction requirement must meet two criteria. First, the inventions must be independent or distinct as claimed. Second, examination on the merits must place a serious burden on the Examiner. M.P.E.P., §803. The argued-for restriction fails to meet either criterion and therefore, must be withdrawn as improper.

Regarding the first criterion, the Examiner's stated basis for the restriction fails to support the assertion that the pending claims constitute independent or distinct inventions. Specifically, the Examiner does not assert that the claims of Groups I and II are independent or

distinct, but rather, simply asserts that the apparatus claims may be used to practice another *additional* invention. In other words, the Examiner admits that the restricted claims are related. However, the MPEP provides that where two or more related inventions are being claimed (which is what the Examiner alleges here), restriction is never proper if the inventions are not distinct. M.P.E.P., §806.05.

Moreover, examination on the merits does not place any serious burden on the Examiner; as such, the restriction also fails to satisfy the second criterion. Particularly, the Examiner identifies class 399, subclass 110 as the field of search for the claims of Group I. The Examiner also identifies class 399 subclass 111 as the field of search for the Group II claims. However, subclass 111 is indented under subclass 110. As such, subclass 110 must be searched as a matter of course whenever subclass 111 is searched. For the Examiner's convenience, the following excerpts defining subclasses 110 and 111 are taken directly from the Manual of Patent Classification (emphasis added);

[Subclass] 110 Modular or displaceable: This subclass is indented under subclass 107. Subject matter wherein parts of the apparatus are removable or movable to gain access to the interior or other parts of the electrophotographic device.

[Subclass] 111 Process cartridge unit: This subclass is indented under subclass 110. Subject matter wherein the particular structure provides a photoconductive member and one or more means for charging, exposing, developing, transferring, etc., as a contained, separate unit.

As evident from the Classification Manual, subclass 111 is itself a subclass of 110. Therefore, the Examiner will necessarily search subclass 111 in addition to subclass 110 when searching either group of claims. Indeed, the burden required to search both subclasses is no more than the burden already required to search a single subclass.

Even *if* the pending claims could be considered to contain distinct inventions, examination of all claims does not place a serious burden on the Examiner. "If the search and examination of an entire application can be made without serious burden, the examiner must

examine it on the merits, even though it includes claims to independent or distinct inventions.”

M.P.E.P., §803 (emphasis added). Accordingly, the argued-for restriction is improper and must be withdrawn.

For the foregoing reasons, the restriction requirement is improper and must be withdrawn. As required, Applicants affirm the provisional election of the claims of Group I species 2 made on July 22, 2005.

### **35 U.S.C. §102(b) rejections**

The Examiner rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by the patent to Asakura. Claim 1 recites, *inter alia*, “a pivot member fixed to [a] housing [of an image forming apparatus ... and] a first arm pivotally mounted in [the] housing about the pivot arm.” Asakura does not disclose a pivot member fixed to the housing of an image forming apparatus, and therefore, cannot possibly disclose a first arm pivotally mounted about the pivot member. As such, Asakura fails to anticipate claim 1 as a matter of law.

Asakura discloses a toner cartridge for an image-forming device that inserts into a rotating rack within the image-forming device. During image-forming operations, the rotating rack, which also carries other cartridges, rotates the cartridges into contact with a PC drum to transfer toner from the cartridge to the PC drum. The Examiner asserts that Asakura discloses the requisite pivot member, and further, that the positioning lever (130) of Asakura is the claimed first arm that pivots about the alleged pivot member. However, a plain reading of Asakura fails to reveal any support whatsoever for this assertion.

Particularly, Asakura discloses the positioning lever, as well as two press levers (131, 132), on wing plates (123) of the rotating rack (22). Each of the positioning levers and the two press levers pivot around respective shafts (133-135). *Asakura*, col. 6, ll. 45-51; Figures 13A-13B. Note that, according to Asakura, the rotating rack and the wing plates are integrally

formed. *Asakura*, col. 6, ll. 19-23. Therefore, the levers and the shafts about which they pivot necessarily rotate with the rotating rack within the image-forming device. The shaft's rotation within the image-forming device necessarily negates the possibility that the shafts are fixed to the housing of the image-forming device. Indeed, fixing the shafts to the image-forming device housing as recited by claim 1 would prevent the rotating rack from performing its intended purpose (i.e., rotating to transfer toner from the cartridges to the PC drum).

In addition, *Asakura* does not disclose that a force exerted on the toner cartridge by the first arm varies according to the point at which the first arm contacts the cartridge. Particularly, the toner cartridges of *Asakura* are positionable in the rotating rack in three sequential states. *Asakura* explicitly discloses that the positioning lever engages the press ridge of the toner cartridge only in the third and final state, but not in the first and second states. *Asakura*, col. 10, ll. 38-41; col. 11, ll. 14-16, 25-35. So do the press levers. Therefore, the levers contact the cartridge at a specific engagement point. As such, whatever force the levers might exert on the cartridge is uniform as it occurs only in the final state and only at the engagement point. *Asakura* gives no indication that this force varies.

Simply put, *Asakura* fails to disclose the claimed pivot member fixed to the housing of the image-forming apparatus. *Asakura* also fails to disclose that a force-generating member exerts a force on a cartridge unit according to the point at which the first arm contacts the cartridge unit. Accordingly, *Asakura* does not anticipate claim 1 or any of its dependent claims under §102. Therefore, the §102 rejection of claim 1 and its dependent claims fails as a matter of law.

The Examiner also rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by *Asakura*. However, claim 15 calls out a removable cartridge that includes a pair of protrusions, each of which contacts a different one of the two pivotable arms. The levers of *Asakura*, in

contrast, both contact the same press ridge. *Asakura*, col. 11, ll. 39-43. Therefore, *Asakura* does not anticipate claim 15 or any of its dependent claims under §102.

**35 U.S.C. §103(a) rejection**

The Examiner also rejected claims 5 and 6 under 35 U.S.C. §103(a) as being unpatentable over *Asakura*. However, claims 5 and 6 depend indirectly from claim 1, and thus, include all the limitations thereof. Because claim 1 is patentable over *Asakura*, so too are claims 5 and 6. Accordingly, the §103 rejection fails.

In light of the above remarks, Applicant respectfully requests allowance for all pending claims.

Respectfully submitted,

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